

The Hon. Robert S. Lasnik

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN HOLCOMB,

Defendant.

NO. CR21-075-RSL

**PRELIMINARY ORDER
OF FORFEITURE**

THIS MATTER comes before the Court on the United States' Motion for Preliminary Order of Forfeiture ("Motion") seeking to forfeit, to the United States, Defendant John Holcomb's interest in the following property:

- a. one Toshiba High-Performance P300 hard drive; and
- b. any and all images of child pornography, in whatever format and however stored.

The Court, having reviewed the United States' Motion, as well as the other papers and pleadings filed in this matter, hereby FINDS entry of a Preliminary Order of Forfeiture is appropriate for the following reasons:

- The above-identified property is forfeitable pursuant to 18 U.S.C. § 2253(a) as it consists of prohibited images and/or property the Defendant used to

commit or to facilitate his commission of Production of Child Pornography, in violation of 18 U.S.C. § 2251(a) and (e); and,

- In the Plea Agreement he entered on December 7, 2022, Defendant agreed to forfeit this property pursuant to 18 U.S.C. § 2253(a). Dkt. No. 95, ¶ 11.

NOW, THEREFORE, THE COURT ORDERS:

1. Pursuant to 18 U.S.C. § 2253(a) and his Plea Agreement, the Defendant's interest in the above-identified property is fully and finally forfeited, in its entirety, to the United States;

2. Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will be final as to the Defendant at the time he is sentenced, it will be made part of the sentence, and it will be included in the judgment;

3. The United States Department of Justice, the Federal Bureau of Investigation (FBI), and/or their authorized agents or representatives shall maintain the hard drive in their custody and control until further order of this Court. The FBI shall destroy any prohibited images unless they have been destroyed already or will be retained for official, investigative use, as permitted by 21 U.S.C §§ 853(i) and 881(e);

4. Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n), the United States shall publish notice of this Preliminary Order and its intent to dispose of the hard drive as permitted by governing law. The notice shall be posted on an official government website - currently www.forfeiture.gov - for at least thirty (30) days. For any person known to have alleged an interest in the hard drive, the United States shall, to the extent possible, provide direct written notice to that person. The notice shall state that any person, other than Defendant, who has or claims a legal interest in the hard drive must file a petition with the Court within sixty (60) days of the first day of publication of the notice (which is thirty (30) days from the last day of publication), or within thirty (30)

1 days of receipt of direct written notice, whichever is earlier. The notice shall advise all
 2 interested persons that the petition:

- 3 a. shall be for a hearing to adjudicate the validity of the petitioner's alleged
- 4 interest in the hard drive;
- 5 b. shall be signed by the petitioner under penalty of perjury; and,
- 6 c. shall set forth the nature and extent of the petitioner's right, title, or
- 7 interest in the hard drive, as well as any facts supporting the petitioner's
- 8 claim and the specific relief sought.

9 5. If no third-party petition is filed within the allowable time period, the
 10 United States shall have clear title to the hard drive, and this Preliminary Order shall
 11 become the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(c)(2);

12 6. If a third-party petition is filed, upon a showing that discovery is necessary
 13 to resolve factual issues it presents, discovery may be conducted in accordance with the
 14 Federal Rules of Civil Procedure before any hearing on the petition is held. Following
 15 adjudication of any third-party petitions, the Court will enter a Final Order of Forfeiture,
 16 pursuant to Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n), reflecting that
 17 adjudication; and,

18 7. The Court will retain jurisdiction for the purpose of enforcing this
 19 Preliminary Order, adjudicating any third-party petitions, entering a Final Order of
 20 Forfeiture, and amending the Preliminary Order or Final Order as necessary pursuant to
 21 Fed. R. Crim. P. 32.2(e).

22 IT IS SO ORDERED.

23 DATED this 7th day of March, 2023.

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26 THE HON. ROBERT S. LASNIK
 27 UNITED STATES DISTRICT JUDGE

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2 Presented by:

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